

AMENDED IN ASSEMBLY AUGUST 18, 2014

AMENDED IN SENATE APRIL 10, 2014

**SENATE BILL**

**No. 1356**

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**Introduced by Senator ~~Lieu~~ De León**

*(Principal coauthors: Assembly Members Atkins, Gatto, and Hall)*

***(Coauthors: Senators Anderson, Correa, Hueso, and Lara)***

*(Coauthors: Assembly Members Ian Calderon, Dababneh, and Roger Hernández)*

February 21, 2014

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~~An act to amend Sections 17801 and 17802 of the Business and Professions Code, relating to counterfeit goods. An act to add Section 12012.64 to the Government Code, relating to tribal gaming, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1356, as amended, ~~Lieu~~ De León. ~~Counterfeit goods: abatement: nonresidential premises. Tribal gaming: compact ratification.~~

*Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature. Existing law expressly ratifies a number of tribal-state gaming compacts, and amendments of tribal-state gaming compacts, between the State of California and specified Indian tribes.*

*The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on*

*the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect.*

*This bill would ratify the amendment to the tribal-state gaming compact entered into between the State of California and the Viejas Band of Kumeyaay Indians, executed on August 12, 2014. The bill would provide that, in deference to tribal sovereignty, certain actions related to that amended compact are not projects for purposes of CEQA.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~(1) Existing law provides that, until January 1, 2015, if a person is convicted for willfully manufacturing, intentionally selling, or knowingly possessing for sale any counterfeit mark, then a nonresidential building or place used by that person for the purpose of willfully manufacturing, intentionally selling, or knowingly possessing for sale any counterfeit of a registered mark is a nuisance that shall be enjoined, abated, and prevented, whether it is a public or private nuisance, and specified civil remedies may be applied. A violation of a restraining order or an injunction relative to a nuisance in this context is a crime. Under existing law, a district attorney, county counsel, city attorney, or city prosecutor that maintains an action or actions to enjoin, abate, or prevent a nuisance pursuant to these provisions was required to report to the Legislature by October 1, 2013, on their use of the provisions and their effectiveness.~~

~~This bill would extend the operation of the provisions described above until January 1, 2016. By extending the operation of these provisions, this bill would expand the scope of a crime, as described above. The bill would also require a district attorney, county counsel, city attorney, or city prosecutor that maintains an action to enjoin, abate, or prevent a nuisance pursuant to these provisions to provide a report to the Senate and Assembly Committees on Judiciary, as specified, by February 1, 2015.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 12012.64 is added to the Government*  
2     *Code, to read:*

3     12012.64. (a) *The amendment to the tribal-state gaming*  
4     *compact entered into in accordance with the federal Indian Gaming*  
5     *Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, inclusive,*  
6     *and 25 U.S.C. Sec. 2701 et seq.) between the State of California*  
7     *and the Viejas Band of Kumeyaay Indians, executed on August 12,*  
8     *2014, is hereby ratified.*

9     (b) (1) *In deference to tribal sovereignty, none of the following*  
10    *shall be deemed a project for purposes of the California*  
11    *Environmental Quality Act (Division 13 (commencing with Section*  
12    *21000) of the Public Resources Code):*

13    (A) *The execution of an amendment to the tribal-state gaming*  
14    *compact ratified by this section.*

15    (B) *The execution of the amended tribal-state gaming compact*  
16    *ratified by this section.*

17    (C) *The execution of an intergovernmental agreement between*  
18    *a tribe and a county or city government negotiated pursuant to*  
19    *the express authority of, or as expressly referenced in, the amended*  
20    *tribal-state gaming compact ratified by this section.*

21    (D) *The execution of an intergovernmental agreement between*  
22    *a tribe and the Department of Transportation negotiated pursuant*  
23    *to the express authority of, or as expressly referenced in, the*  
24    *amended tribal-state gaming compact ratified by this section.*

25    (E) *The on-reservation impacts of compliance with the terms*  
26    *of the amended tribal-state gaming compact ratified by this section.*

27    (F) *The sale of compact assets, as defined in subdivision (a) of*  
28    *Section 63048.6, or the creation of the special purpose trust*  
29    *established pursuant to Section 63048.65.*

30    (2) *Except as expressly provided in this section, this subdivision*  
31    *does not exempt a city, county, or city and county, or the*  
32    *Department of Transportation, from the requirements of the*  
33    *California Environmental Quality Act.*

34    SEC. 2. *This act is an urgency statute necessary for the*  
35    *immediate preservation of the public peace, health, or safety within*  
36    *the meaning of Article IV of the Constitution and shall go into*  
37    *immediate effect. The facts constituting the necessity are:*

1 *In order to enhance the economic development, stability, and*  
2 *self-sufficiency of the Viejas Band of Kumeyaay Indians and to*  
3 *protect the interests of the tribe and its members, the surrounding*  
4 *community, and the California public at the earliest possible time,*  
5 *it is necessary that this act take effect immediately.*

6 ~~SECTION 1. Section 17801 of the Business and Professions~~  
7 ~~Code is amended to read:~~

8 ~~17801. A district attorney, county counsel, city attorney, or~~  
9 ~~city prosecutor that maintains an action or actions to enjoin, abate,~~  
10 ~~or prevent a nuisance pursuant to the provisions of this chapter~~  
11 ~~shall report to the Senate and Assembly Committees on Judiciary,~~  
12 ~~by February 1, 2015, on their use of the provisions of this chapter~~  
13 ~~and their effectiveness. The report shall include, but not be limited~~  
14 ~~to, all of the following:~~

15 ~~(a) The frequency of use of the nuisance abatement provisions~~  
16 ~~as well as statistics on whether the use of the abatement provisions~~  
17 ~~correlates with a decrease in the use of criminal penalties.~~

18 ~~(b) Any statistics or information concerning the impact of the~~  
19 ~~use of these provisions on counterfeiting overall, both in the~~  
20 ~~relevant county or city and overall.~~

21 ~~SEC. 2. Section 17802 of the Business and Professions Code~~  
22 ~~is amended to read:~~

23 ~~17802. This chapter shall remain in effect only until January~~  
24 ~~1, 2016, and as of that date is repealed, unless a later enacted~~  
25 ~~statute, that is enacted before January 1, 2016, deletes or extends~~  
26 ~~that date.~~

27 ~~SEC. 3. No reimbursement is required by this act pursuant to~~  
28 ~~Section 6 of Article XIII B of the California Constitution because~~  
29 ~~the only costs that may be incurred by a local agency or school~~  
30 ~~district will be incurred because this act creates a new crime or~~  
31 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
32 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
33 ~~the Government Code, or changes the definition of a crime within~~  
34 ~~the meaning of Section 6 of Article XIII B of the California~~  
35 ~~Constitution.~~